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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,116	02/13/2006	Gottfried Rieger	2003P13100WOUS	5505
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EXAMINER JAKOVAC, RYAN J				
ART UNIT		PAPER NUMBER		
2445				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,116

Applicant(s)

RIEGER ET AL.

Examiner

RYAN J. JAKOVAC

Art Unit

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 11, 13 and 16-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 10-11, 13, 16-19 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 10-11, 13, and 16-19 have been considered but are moot in view of the new ground(s) of rejection.

Examiner's Note

2. The Applicant's invention is directed towards a system in which a firewalled mobile device communicates wirelessly with another firewalled data processing system or "automation component" (Rieger, abstract: "A first firewall is provided for securing data transmission from the automation components to the mobile operating and monitoring device while a second firewall is supplied for securing data transmission from the mobile operating and monitoring device to the automation components." Paragraph [0004]: "Technical installations are controlled and operated with specific digital data processing systems, also called automation components.").

3. The Examiner's cited reference, Firewalls Complete, discloses that firewalls secure ingoing and outbound connections. Two computing elements, one on a mobile device such as a laptop, each comprising a firewall as disclosed in Firewalls Complete, would have been well a well known and predictable variation to one of ordinary skill in the art at the time of the invention.

"When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability.

For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Id. at ___, 82 USPQ2d at 1396.” See MPEP 2141.

4. The Examiner has given Official Notice that wireless transmission between computing entities is well known.
5. The Applicant is effectively claiming a system where a mobile device with a firewall communicates wirelessly with another computing element that also has a firewall. However, these processes and systems are well known in the art. The differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10, 11, 13, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Firewalls Complete (hereinafter Firewalls) in view of Official Notice.

Regarding claim 10, Firewalls in view of Official Notice teaches a Human-Machine-Interface (HMI) system, comprising:

at least one mobile operating and monitoring device for controlling automation components of a technical installation (Firewalls, pg. 418, 578-579, firewalls secure ingoing and outbound connections.);

a first firewall in the mobile operating and monitoring device for securing data transmissions in the first data stream (Firewalls, pg. 418, 578-579, firewalls secure ingoing and outbound connections.); and

a second firewall in the automation component with the radio access point for securing data transmissions in the second path (Firewalls, pg. 418, 578-579, firewalls secure ingoing and outbound connections.), and

wherein the first firewall secures transmissions on the first communication path but not on the second communication path (Firewalls, pg. 418, 578-579, firewalls secure ingoing and outbound connections.), and the second firewall secures transmissions on the second communication patch but not on the first communication path (Firewalls, pg. 418, 578-579, firewalls secure ingoing and outbound connections.).

Regarding the following limitations: *a radio link for wireless data transmission between the mobile operating and monitoring device and an automation component with a radio access point, the radio link comprising a first data stream wherein data is transmitted from the*

automation component with a radio access point to the mobile operating and monitoring device), and a second data stream wherein data is transmitted from the mobile operating and monitoring device to the automation component with the radio access point, Firewalls does not expressly disclose wireless transmission, however, Official Notice is given that wireless transmission between such entities is well known in the art.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate wireless transmissions as claimed above with the firewalled systems as disclosed in Firewalls in order to use the well known advantages of wireless transmission.

Regarding claim 11, Firewalls in view of Official Notice teaches the HMI system in accordance with claim 10, wherein the security procedures loaded and active in the first and second firewalls have the same security effects (Firewalls, pg. 418, 578-579, firewalls secure ingoing and outbound connections.).

Regarding claim 13, 19, Firewalls in view of Official Notice teaches the HMI system in accordance with claim 10, wherein the mobile operating and monitoring device is encapsulated. Official Notice is given than encapsulated mobile devices such as laptops are well known and further are known to commonly use firewall technology as disclosed in Firewalls.

Regarding claim 16, Firewalls in view of Official Notice teaches the HMI system in accordance with claim 10, wherein the automation components are connected by a field bus,

wherein the automation component with the radio access point is connected to the field bus.

Official Notice is given that the use of a field bus is well known.

Regarding claim 17, 18, Firewalls in view of Official Notice teaches the HMI system in accordance with claim 10, wherein the automation components include a radius server connected to a field bus. Firewalls does not expressly disclose a radius server connected to a field bus. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the nonfunctional descriptive material with the claimed invention because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the descriptive material does not patentably distinguish the claimed invention.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 2445